

REMARKS

I. Introduction

Claims 1-15 are pending in the application. Claims 9-14 were withdrawn by the Examiner following a Restriction Requirement. Amendments to the Specification have been made to correct informalities and for clarification purposes. Additionally, sequence identifiers SEQ ID:2 and SEQ ID NO:3, which refer to the sequences for wild type BCR and wild-type c-ABL respectively have been inserted into the specification. These sequences were originally incorporated by reference by way of their Genbank Accession numbers as stated on page 8, lines 8-10 and therefore the amendment complies with 37 CFR 1.57.

This paper is being filed by the below signed registered patent attorney, acting in a representative capacity for the Applicants in compliance with 37 CFR § 1.34. An executed power of attorney will follow in due course.

As such, no new matter has been introduced. Reconsideration of this application as amended, and allowance of all pending claims are hereby respectfully requested.

II. Sequence Listing

A Substitute Sequence Listing is herein submitted to comply with the requirements of an application containing a nucleotide and/or amino acid sequence 37 C.F.R. §§ 1.821 - 1.825.

The paper copy and computer readable copy of the Substitute Sequence Listing are the same.

The SEQ ID NO:1 was originally referred to in the originally filed sequence listing. The substitute sequence listing submitted herein, includes sequence listings for SEQ ID NO:1 as well as SEQ ID NOs. 2 and 3. The sequences of wild type BCL protein (SEQ ID NO:2) and wild type c-ABL protein (SEQ ID NO:3) were originally incorporated by reference (page 8, lines 8-

10), through their respective Genbank accession numbers (P00519, and P11274) on page 10 lines 1-4 of the specification.

As such, the Substitute Sequence Listing does not include new matter.

Entry of the Substitute Sequence Listing, amendments to the specification and favorable consideration are respectfully requested.

III. Specification

The specification was objected to for the use of trademarks without being capitalized. Applicants respectfully submit that the specification has been amended to obviate the objections.

IV. Drawings

The drawings were not accepted as allegedly not complying with 37 CFR 1.17(h). Applicants respectfully submit that the application as filed on March 24, 2004 included 3 sets of color drawings and a statement regarding color drawings was made on page 5 lines 20-24 of the specification. An artifact sheets from PAIR (Tab A) show that the color drawings were submitted.

Accordingly, it is respectfully requested that the drawings be accepted.

V. Claim Rejections – 35 U.S.C. § 112, Second Paragraph

Claims 1-8 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Specifically, with respect to claim 1, the Examiner alleged that is not clear what the term “wild type” means. Applicants respectfully disagree with the Examiner’s position. The specification clearly defines the term “wild type” as it relates to BCR and c-ABL, on page 10, lines 1-4 of the specification. The specification provides that: “the amino acid sequence of

human wild type BCR (*see* accession P00519) and c-ABL (*see* accession #P11274) are both known and published, as are the sequences of BCR and c-ABL from other species.”

Moreover, the specification has been amended include the sequences of wild-type BCR and c-ABL.

As such the term “wild type” as used in claim 1 is clearly defined in the specification.

Claim 4 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for the use of the term “suitable”. Applicants respectfully submit that claim 4 has been amended to obviate this rejection.

VI. Claim Rejections – 35 U.S.C. § 112, First Paragraph, Deposit Requirement

Claim 8 was rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement, under the deposit rule requirement. Specifically, the Examiner alleges that a deposit for patent purposes of the hybridoma cell line, having Accession No: PAT-5851 is required. Applicants respectfully submit that a deposit of the hybridoma cell line PTA-5851 has been made under the provisions of the Budapest Treaty as indicated on page 13, lines 13-15 of the specification, which includes the accession number (PTA-5851), the date of deposit (March 9, 2004), the name of the depository (ATCC) and a description of the deposited biological material (hybridoma clone #4H3).

The specification has been further amended herein to include the address of the depository (ATCC P.O.Box 1549 Manassas, VA 20108 USA) on provided herein and the specification has been amended to comply with 37 CFR 1.809(d).

Furthermore, Applicants state that the deposit has been accepted by an International Deposit Authority under the provisions of the Budapest Treaty, that all restrictions upon public

access to the deposits will be irrevocably removed upon the grant of a patent on this application and that the deposit will be replaced if viable samples cannot be dispensed by the depository.

Accordingly, it is respectfully submitted that the rejection be withdrawn.

VII. Claim Rejections Under 35 U.S.C. § 112, First Paragraph Written Description

Claims 1-8 and 15 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. The Examiner contends that the terms “wild type BCR” and “wild type c-ABL” without being accompanied by a sequence identification number encompass a genus of BCR or ABL sequences with unknown structure.

Applicants respectfully submit that the sequence listing included herein, including the sequence listings for wild type BCR and ABL, as disclosed in the specification on page 10, lines 1-4 of the specification obviates this rejection.

VIII. Claim Rejections Under 35 U.S.C. § 112, First Paragraph Enablement

Claims 1-7 and 15 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement.

Applicants respectfully submit that the gene sequences of wild type BCR and ABL as submitted herewith and as disclosed in the specification on page 10, lines 1-4 of the specification obviate this rejection.

IX. Conclusion

For all of the foregoing reasons discussed above, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.


If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

Application No.: 10/807,799

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP


Aamer S. Ahmed
Registration No. 58,958

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 MEF:ASA
Facsimile: 202.756.8087
Date: December 31, 2007

**Please recognize our Customer No. 53080
as our correspondence address.**